

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DARRELL M. MCKELVIE,	:	
	:	
Petitioner	:	
v.	:	CIVIL ACTION NUMBER 00-3409
	:	
SUPERINTENDENT MARY	:	
LEFRIDGE-BYRD, et al.,	:	
	:	
Respondents	:	

STATEMENT REGARDING STATUS OF RULE 60(B) MOTION

Petitioner, Darrell McKelvie, through undersigned counsel, hereby submits this statement regarding the Rule 60(b) motion filed in the above-captioned matter.

In this matter, Mr. McKelvie seeks relief from the Court's 2001 judgment dismissing the petition for writ of habeas corpus that he filed in 2000 in connection with his 1975 first-degree murder conviction and sentence of life imprisonment — an offense for which he vehemently maintains his innocence. Nonetheless, after consulting with counsel, Mr. McKelvie recognizes that this Rule 60(b) motion is not the appropriate vehicle for challenging his conviction. Mr. McKelvie's original habeas petition was denied on the merits in 1985, and his 2000 habeas petition was a second or successive petition filed without leave of the Third Circuit Court of Appeals, as required by 28 U.S.C. § 2244(b). Accordingly, as appropriate, Mr. McKelvie will file a motion with the Court of Appeals seeking leave to litigate a successive habeas corpus petition. At this time, this matter can be dismissed.

Respectfully submitted,

/s/ Claudia B. Flores

CLAUDIA B. FLORES
Assistant Federal Defender
Federal Community Defender Office for the
Eastern District of Pennsylvania
601 Walnut Street
The Curtis Center, Suite 540 West
Philadelphia, PA 19106
(215) 928-1100

Counsel for Petitioner Darrell N. McKelvie

Date: January 2, 2020

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing to be filed and served electronically through this Court's Electronic Case Filing System upon Banafsheh Amirzadeh, Esq.

/s/ Claudia B. Flores
CLAUDIA B. FLORES

DATE: January 2, 2020